Exhibit B

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

In re: PHARMACEUTICAL INDUSTRY AVERAGE WHOLESALE PRICE LITIGATION	)	MDL No. 1456 Civil Action No. 01-12257-PBS
THIS DOCUMENT RELATES TO:	)	Hon. Patti B. Saris
United States of America, ex rel. Ven-a-Care of the Florida Keys, Inc. v. Boehringer Ingelheim Corporation, et al., CIVIL ACTION NO. 07-10248-PBS	)	

REBUTTAL REPORT OF MARK G. DUGGAN, PH.D.

Indeed, the most striking disparity is that the state of New York had an adjudication algorithm that led to a much lower value of DIFFERENCE because it used the FUL regardless of the product's AWP. This will tend to pull down the per-claim value of DIFFERENCE for the 16 states that I consider and thus lead to a conservative estimate for the remaining 33.

It is worth noting that the 16 are not a random sample of the initial 49, but this is because I focused attention on the largest states to obtain the maximum amount of precision. Put simply, it is more important to the total value of DIFFERENCE to be as accurate as possible for the state of California, with more than $39 million in Medicaid spending on Complaint products, than it is in the state of Vermont, which spent just $498 thousand on these same products.

Nevertheless, it is instructive to consider how the total value of DIFFERENCE might have changed if I had utilized claims data for the remaining 33 states. To do this, I repeated the algorithm that I used for New York, California, and the other states for South Carolina, which is a state with relatively high spending for which I did have state claims data, and for which my findings in the report indicated a federal DIFFERENCE of $899 thousand. If instead I use state claims data for South Carolina, essentially adding it as a seventeenth state, my results indicate a total DIFFERENCE of $965 thousand, which would be substantially less favorable for Roxane. This result provides strong support for the methodology that I used to estimate the total value of DIFFERENCE in the remaining 33 states.

Divested Drugs

Dr. Williams observes that my Medicaid analyses included DIFFERENCE values for certain NDC-quarters whose rights had been sold to Elan Pharma International Limited in late September of 2001. At the instruction of Department of Justice, I have prepared revised

Medicaid DIFFERENCE analyses that exclude time periods for those products that were sold to Elan. With this change, the total value of the federal DIFFERENCE in Medicaid spending declines from $68.957 million to $65.726 million. Tables 29rev, 31A-rev, and 31B-rev summarize the effects of this change to the state Medicaid analyses.

Novaplus

Dr. Williams and Dr. Scott Morton both argue that I have failed to properly treat the NovaPlus products as generics. However, I have simply treated them as did the DMERCs. The treatment of the NovaPlus products as brand products appears appropriate in light of the regulation and HCFA instructions that existed at the time (see 63 Fed Reg 58814, 58850 (November 2, 1998) and HCFA Transmittal Number AB-98-76 (December 1998) (HHC021-0030)). Additionally, in my report I have summarized a companion set of Medicare analyses that do not revise the AWPs for NovaPlus products.

Revisions to Calculations for the no-NovaPlus Scenario

In my original report, in the no-NovaPlus scenario, I removed the Roxane NovaPlus products from the generic portion of the DMERC-A arrays. I have determined that it is more appropriate to leave the NovaPlus products in the generic portion of the DMERC-A arrays and leave their prices unchanged in the no-NovaPlus combined scenario for Ipratropium Bromide. As a result of this, the combined value of DIFFERENCE declines from $1.103 billion to $1.093 billion. Roxane's share of this, using its relative market share, falls as a result from $313 million to $311 million. This revision is summarized in the attached Tables 37rev and 39B-rev. This change does not affect the value of DIFFERENCE in the Roxane-only, no NovaPlus scenario.